IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 12TH DECEMBER 2007 / 21ST AGRAHAYANA 1929

OP.No. 3426 of 2002(G)

PETITIONER:

I.SHAJAHAN, KOOTTUPUZHACKAL,
PLAVILA VEEDU, POONKULANJI (VIA), PADAOM,
PATHANAPURAM.

BY ADV. SRI.V.C.JAMES
SRI.SERGI JOSEPH THOMAS

RESPONDENTS:
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1. RANGE OFFICER (FOREST),
MANNARAPPARA.

2. DIVISIONAL FOREST OFFICER, KONNI.

3. DEPUTY TAHSILDAR (R.R.), PATHANAPURAM.

4. STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM.

BY G.P. SMT.SMITHA SUKUMAR

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 12/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO.6126/2002 IN O.P. NO.3426/2002

DISMISSED:

12.12.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE NOTICE DT.20.11.96.

P2: TRUE COPY OF THE BILL DT.3.7.97.

P3: TRUE COPY OF THE COVERING LETTER DT.15.12.2000.

P3(a): TRUE COPY OF THE CALCULATION SHEET DT.19.6.98.

P3(b): TRUE COPY OF THE CHALAN DT.15.1.2001.

P4: TRUE COPY OF THE OBJECTION DT.30.12.2000.

P5: TRUE COPY OF THE R.R. NOTICE DT.18.1.2002.

RESPONDENT'S EXHIBITS:

R1(a): TRUE COPY OF BIDDER WAR ABSTRACT DT.5.7.97.

R1(b): TRUE COPY OF NOTICE FOR THE RE-AUCTION NOTIFICATION.

R1(c): TRUE COPY OF THE BIDDER WAR ABSTRACT DT.3.7.97.

TRUE COPY

PA TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.3426 of 2002

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Dated this the 12th day of December, 2007.

JUDGMENT

Heard counsel for the petitioner and Government Pleader. Challenge is against recovery proceedings for recovery of compensation demanded on petitioner's failure to pay the price for the teak poles purchased by the petitioner. Nine lots of teak poles were sold to the petitioner on 5.7.1997. Even though sale was confirmed on 23.8.1997 and petitioner was given extension of time for making payment and to lift the materials, petitioner paid only for two lots and took delivery of the same. Consequently department reauctioned the balance quantity at petitioner's risk and cost in terms of tender conditions. The amount demanded from the petitioner is Rs.87,326/- which is the loss suffered by the Government on resale. Even though counsel contended that petitioner is not liable to pay the differential cost in the form of compensation, I find demand is perfectly in terms of the tender conditions accepted by the petitioner at the time of participating in the sale. In the circumstances, challenge against recovery is rejected. In view of payment of 50% made by the petitioner, I waive the interest payable by the petitioner provided balance amount is paid by the petitioner before

20.1.2008. However, if payment is not made as above, respondents will be free to proceed to recover the balance amount with interest.

The O.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms